

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

SHAWN L. WILLIAMS,)
Plaintiff,)
) C.A. No. 22-242 Johnstown
)
v.) District Judge Susan Paradise Baxter
COII STEPHEN POBORSKY, et al.,) Chief Magistrate Judge Richard Lanzillo
Defendants.)

MEMORANDUM ORDER

Plaintiff Shawn L. Williams, an inmate formerly incarcerated at the State Correctional Institution at Houtzdale, Pennsylvania (“SCI-Houtzdale”)¹ initiated this civil rights action on December 19, 2022, by filing a *pro se* complaint against ten staff members at SCI-Houtzdale: Unit Manager Defelice, Captain J. Jones, Sergeants S. Jones and Young, Grievance Coordinator Reifer, Hearing Examiners Nunez and Rudzienski, and Corrections Officers Poborsky, Morgan, and Neyman. This matter was referred to Chief United States Magistrate Judge Richard A. Lanzillo for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. §636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

Plaintiff claims that Defendants retaliated against him in violation of his rights under the First Amendment; subjected him to cruel and unusual conditions of confinement and acted with deliberate indifference to his health and safety in violation of his rights under the Eighth Amendment; issued false misconduct charges against him and denied him due process at his

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Plaintiff is presently incarcerated at the State Correctional Institution at Benner Township in Bellefonte, Pennsylvania.

disciplinary misconduct hearings in violation of his Fourteenth Amendment rights; and harassed him and caused him emotional distress in violation of Pennsylvania state tort law. Plaintiff asserts his claims against each Defendant in his or her individual and official capacities, and seeks to recover injunctive, declaratory, and monetary relief.

On June 14, 2023, Defendants filed a partial motion to dismiss seeking dismissal of all claims other than Plaintiff's retaliation claim against Defendants S. Jones, Morgan, Poborsky, Young, and Neyman in their individual capacities. [ECF No. 29]. Plaintiff was ordered to file a response to Defendants' motion by July 28, 2023 [ECF No. 31]. When he failed to do so, Chief Magistrate Judge Lanzillo issued a show cause order requiring a response to be filed by January 10, 2024 [ECF No. 44]. Though Plaintiff filed a "Response/Objection" to the show cause order stating several reasons for his failure to file a response, none of them were found to be compelling.

So, on February 7, 2024, Judge Lanzillo issued a Report and Recommendation ("R&R") recommending that Defendants' motion be GRANTED and that the Court dismiss all of the claims subject to Defendants' motion, with prejudice, except for Plaintiff's Eighth Amendment conditions of confinement and deliberate indifference to serious medical needs claims, which should be dismissed, without prejudice to Plaintiff's right to amend his complaint to correct the deficiencies of such claims within twenty days [ECF No. 47]. The R&R recommends further that Defendants Rudzienski, Nunez, and Reifer be terminated from this case. No timely objections to the R&R have been received by the Court.

After *de novo* review of the complaint and documents in this case, together with the report and recommendation, the following order is entered:

AND NOW, this 29th day of February, 2024;

IT IS HEREBY ORDERED that Defendants' partial motion to dismiss [ECF No. 29] is GRANTED, and all of Plaintiff's claims subject to Defendants' motion are DISMISSED, with prejudice, except for Plaintiff's Eighth Amendment conditions of confinement and deliberate indifference to serious medical needs claims, which are DISMISSED, without prejudice to Plaintiff's right to file an amended complaint to correct the deficiencies of such claims noted in the R&R within twenty (20) days of the date of this Order. In the event Plaintiff fails to file an appropriate amended complaint within such time, the Court's dismissal of Plaintiff's Eighth Amendment claims will be converted to a dismissal with prejudice without further notice.

IT IS FURTHER ORDERED that the Clerk shall terminate Defendants Rudzienski, Nunez, and Reifer from this case. The report and recommendation of Chief Magistrate Judge Lanzillo, issued February 7, 2024 [ECF No. 47], is adopted as the opinion of the court.



SUSAN PARADISE BAXTER
United States District Judge

cc: The Honorable Richard A. Lanzillo
Chief U.S. Magistrate Judge

all parties of record